

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Keyne Jean Villert	Team: Squad #14	CCRB Case #: 201409498	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/17/2014 9:56 PM	Location of Incident: South 10th Avenue and West 3rd Street in Mount Vernon, New York	Precinct: 47	18 Mo. SOL 2/17/2016	EO SOL 2/17/2016	
Date/Time CV Reported Mon, 09/15/2014 5:15 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 09/15/2014 5:15 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			047 PCT
2. SGT John Anzelino	00097	917037	047 PCT
3. DTS Daniel Beddows	7398	926556	047 PCT
4. POM Juan Rodriguez	16076	939343	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jens Maldonado	14155	940408	047 PCT
2. POM Daniel Nunez	18750	940519	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Anzelino	Abuse: Sgt. John Anzelino stopped § 87(2)(b) and § 87(2)(b)	
B.POM Juan Rodriguez	Abuse: PO Juan Rodriguez drew his gun.	
C.DTS Daniel Beddows	Abuse: Det. Daniel Beddows drew his gun.	
D.DTS Daniel Beddows	Force: Det. Daniel Beddows pointed his gun at § 87(2)(b) and § 87(2)(b)	
E.POM Juan Rodriguez	Abuse: PO Juan Rodriguez threatened § 87(2)(b) and § 87(2)(b) with the use of force.	
F.POM Juan Rodriguez	Force: PO Juan Rodriguez used pepper spray against § 87(2)(b) and § 87(2)(b)	
G.POM Juan Rodriguez	Force: PO Juan Rodriguez used physical force against § 87(2)(b)	
H. An officer	Abuse: An officer drew his gun.	
I. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
J. An officer	Abuse: An officer frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K. An officer	Abuse: An officer searched § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 17, 2014, at approximately 9:56 p.m., § 87(2)(b) and his two friends, § 87(2)(b) and § 87(2)(b) were walking in the vicinity of the intersection of West 3rd Street and South 10th Avenue in Mount Vernon, New York, when a black unmarked patrol car started following them. § 87(2)(b) said that he, § 87(2)(b) and § 87(2)(b) had been walking from another area within Mount Vernon and did not pass through the Bronx. § 87(2)(b) and his friends realized that the car was following them and then started running away from it. The car was occupied by three officers from the 47th Precinct, identified via investigation as Sgt. John Anzelino, PO Juan Rodriguez and Det. Daniel Beddows. A fourth unidentified officer may have also been inside the car. The officers pursued § 87(2)(b) and § 87(2)(b) in their vehicle, and at some point, the officers exited the car and continued the chase on foot (**Allegation A**). § 87(2)(b) and § 87(2)(b) ran down South 10th Avenue, whereas § 87(2)(b) ran down South 9th Avenue. PO Rodriguez and Det. Beddows eventually caught up with § 87(2)(b) and § 87(2)(b). PO Rodriguez and Det. Beddows allegedly drew their guns and pointed them at § 87(2)(b) and § 87(2)(b) (**Allegation B, C, and D**). PO Rodriguez also allegedly threatened § 87(2)(b) and § 87(2)(b) with the use of force, pepper-sprayed them, and kicked § 87(2)(b) in the back of the head (**Allegations E, F, and G**). During that time, one of the officers, whose identity could not be determined, caught up with § 87(2)(b) and allegedly drew a gun, threatened him with the use of force, frisked him, and searched him, including his backpack (**Allegation H, I, J, and K**). § 87(2)(b) was eventually brought back to his friends, where the officers asked them whether they had stolen anything. The officers eventually told § 87(2)(b) and § 87(2)(b) that they were suspected of placing a gun in a backyard.

This case was originally assigned to Inv. Monique West, § 87(2)(b) on October 3, 2014. On December 23, 2014, this case was reassigned to the undersigned Case Closing Unit investigator.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation because § 87(2)(b) reported having sustained an injury as a result of this incident, § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- On June 23, 2015, a notice of claim inquiry was submitted to the Office of the Comptroller in regard to this incident. The response will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) the only victim who provided a verified statement (See Board Review 17). § 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b) and has not filed any previous CCRB complaints.
- Sgt. Anzelino has been a member of the service for 18 years and there have been, so far, 76 CCRB allegations pled against him in 22 cases. The CCRB has previously substantiated one discourtesy allegation and five abuse of authority allegations against him.
 - In case number 200408476, Sgt. Anzelino was found to have improperly detained, cursed at, and maliciously transported away to another borough an individual. § 87(2)(g), § 87(4-b)
§ 87(2)(b) The Board recommended Charges and the NYPD issued a Command Discipline.
 - In case number 201106433, Sgt. Anzelino was found to have improperly supervised the stop of multiple individuals and refused to provide his name and shield number. § 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b) The Board recommended Charges and the NYPD issued a Command Discipline.

○ § 87(4-b), § 87(2)(g)

- PO Rodriguez has been a member of the service for nine years and there are no substantiated CCRB allegations against him. So far, there have been 33 CCRB allegations pled against him in 11 cases. He has previously been listed as the subject officer of eight force allegations, each of which was closed as unfounded, exonerated, or unsubstantiated.
- § 87(2)(g) CCRB case number 201305568, the allegations stemmed from an incident in which Sgt. Anzelino and PO Rodriguez were assigned to anti-crime and travelled to an incident location in Mount Vernon, New York.
- Det. Beddows has been a member of the service for fourteen years and there are no substantiated CCRB allegations against him. So far, there have been 26 CCRB allegations pled against him in 16 cases. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Potential Issues

- All attempts to interview § 87(2)(b) and § 87(2)(b) in person were unsuccessful. However, before becoming uncooperative, § 87(2)(b) and § 87(2)(b) each provided a phone statement to the CCRB. (See Board Review 12 and 13).
- Because this case took place in Mount Vernon, the investigation reached out to the Mount Vernon Police Department (MVPD) and obtained the statement of one of its members, Sgt. § 87(2)(b) who confirmed the involvement of NYPD officers in this incident.
- § 87(2)(e), § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identifications

On the date of the incident, Sgt. Anzelino, PO Rodriguez and Det. Beddows were assigned to the 47th Precinct Anti-Crime team. However, all three denied remembering the incident or any other incident inside Mount Vernon on that date. § 87(2)(g)

During Sgt. § 87(2)(b)'s CCRB interview, he confirmed that he encountered Sgt. Anzelino in Mount Vernon on the night of the incident and he recorded Sgt. Anzelino's name in his memo book. Furthermore, Sgt. § 87(2)(b)'s testimony included details about the incident § 87(2)(g). First, Sgt. § 87(2)(b) said the NYPD officers told him that § 87(2)(b) and his friends were suspected of having a firearm. Second, Sgt. § 87(2)(b) approximated that three plainclothes officers, including Sgt. Anzelino, were present. Third, Sgt. § 87(2)(b) explained that three teenagers were stopped and that one of them, whose description closely matches § 87(2)(b) complained about having been struck in the mouth area. Lastly, Sgt. § 87(2)(b) remembered that at least one of the stopped individuals carried a backpack. § 87(2)(g)

The civilians initially reported the incident time as approximately 8 p.m. § 87(2)(b) later said the incident occurred between 8 p.m. and 8:30 p.m. The 47th Precinct Command Log indicates that Sgt. Anzelino was present at the 47th Precinct stationhouse at 8:01 p.m. when he logged two unrelated arrests

made by PO Daniel Nunez, another member of the 47th Precinct Anti-Crime unit (See Board Review 01, 04, and 05). However, the discrepancy in the incident time was clarified by Sgt. § 87(2)(b)'s memo book, which noted that the incident occurred at approximately 9:56 p.m. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

On the date of incident, a black unmarked vehicle matching the description of the car provided by the civilians was assigned to the Anti-Crime unit. Officer statements revealed that the Anti-Crime unit occasionally enters Mount Vernon, and the CCRB histories of Sgt. Anzelino and PO Rodriguez even include a previous incident that occurred in Mount Vernon. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) viewed a photo array of potential subject officers and recognized Sgt. Anzelino as potentially being one of the officers involved in the initial pursuit. Although § 87(2)(b) also stated that Lt. Michael Raso, from the 47th Precinct, may have been that same officer, none of the evidence indicates that Lt. Raso was working at the time of the incident. (See Board Review 14). Instead, the evidence indicates that Sgt. Anzelino was the supervisor of the Anti-Crime unit. § 87(2)(g)

§ 87(2)(g)

Similarly, § 87(2)(b) identified PO Rodriguez, from the photo array, as potentially being the officer who kicked him and pepper-sprayed him and § 87(2)(b) (See Board Review 14). This officer also allegedly drew his gun and threatened § 87(2)(b) and § 87(2)(b) with the use of force. PO Rodriguez closely matches the descriptions of that officer provided by § 87(2)(b) and § 87(2)(b) and it is undisputed that he was working at the time of the incident. None of the other officers known to have been working with the Anti-Crime unit at the time of the incident match the descriptions of this officer. § 87(2)(g)

§ 87(2)(g)

Furthermore, § 87(2)(b) identified Det. Beddows, from the photo array, as potentially being one of the officers involved in the initial pursuit. § 87(2)(b) specified that this subject officer drew a gun and pointed it at him and § 87(2)(b) (See Board Review 14). Det. Beddows also closely matches the descriptions, provided by § 87(2)(b) and § 87(2)(b) of one of the officers involved in the pursuit. It is undisputed that Det. Beddows was a member of the Anti-Crime unit at the time of this incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that an unidentified officer drew a gun, frisked him, and searched him before escorting him back to his friends. The investigation was not able to show a photo array to § 87(2)(b) but in a phone statement, § 87(2)(b) provided a description of this officer that closely matches Det. Beddows. Meanwhile, § 87(2)(b) said that Det. Beddows was one of the officers who pursued him and § 87(2)(b) and instead identified Sgt. Anzelino as potentially being the officer who pursued § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pled

Abuse of Authority: § 87(2)(g)

§ 87(2)(g)

Force: § 87(2)(g) Although § 87(2)(b) initially alleged that § 87(2)(b) was punched by officers, he later retracted his statement and explicitly denied that this occurred. § 87(2)(b) did not allege that he was punched. In a phone statement, § 87(2)(b) did say that an officer pushed him from a kneeling position to the ground and pinned him there. § 87(2)(g)

Force: During § 87(2)(b)'s in-person interview, he alleged that PO Rodriguez and Det. Beddows pointed their guns at him and § 87(2)(b). However, during a subsequent photo viewing, he indicated that only Det. Beddows pointed a gun at him and § 87(2)(b). No other civilians alleged this. § 87(2)(g)

Allegation A – Abuse of Authority: Sgt. John Anzelino stopped § 87(2)(b) and § 87(2)(b)

Allegation F – Force: PO Juan Rodriguez used pepper spray against § 87(2)(b) and § 87(2)(b)

Allegation G – Force: PO Juan Rodriguez used physical force against § 87(2)(b)

In § 87(2)(b)'s CCRB testimony, he explained that he and his friends were walking when a black unmarked vehicle followed and eventually pursued them. § 87(2)(b) explained that multiple plainclothes officers, including those later identified by the investigation as Sgt. Anzelino, PO Rodriguez, and Det. Beddows, then exited the car and pursued them on foot. § 87(2)(b) said that, during the pursuit, he and § 87(2)(b) split away from § 87(2)(b) who was pursued by an unidentified officer and ran in a different direction. § 87(2)(b) added that multiple officers, including PO Rodriguez and Det. Beddows, caught up with him and § 87(2)(b) at which point PO Rodriguez ordered them to get down on the ground. § 87(2)(b) alleged that PO Rodriguez then immediately discharged pepper-spray at him and § 87(2)(b). At that point, § 87(2)(b) was down on one knee and § 87(2)(b) was still standing up. § 87(2)(b) avoided being pepper-sprayed by shielding his face with one of his arms. Thereafter, PO Rodriguez allegedly kicked § 87(2)(b) in the back of the head, causing him to fall down face forward. § 87(2)(b) said he struck the ground and chipped one of his teeth as a result.

In the phone statements of § 87(2)(b) and § 87(2)(b) they corroborated being followed and pursued. § 87(2)(b) corroborated that the officers' vehicle was black and unmarked, whereas § 87(2)(b) could not describe it. § 87(2)(b) and § 87(2)(b) also corroborated that § 87(2)(b) split away from § 87(2)(b) and § 87(2)(b). § 87(2)(b) corroborated that he and § 87(2)(b) were later pepper-sprayed by PO Rodriguez; however, he made no mention of § 87(2)(b) having been kicked in the head. § 87(2)(b) indicated that he was not present at the time of the alleged discharge of a pepper-spray and use of force. (See Board Review 12 and 13).

Sgt. § 87(2)(b) indicated that he arrived at the scene after the pursuit had already ended and § 87(2)(b) had already been reunited with § 87(2)(b) and § 87(2)(b). Sgt. § 87(2)(b) denied observing any signs that pepper-spray had been discharged at the scene. Sgt. § 87(2)(b) also indicated that he spoke with § 87(2)(b) who complained that an officer either punched him or struck him in the mouth. Sgt. § 87(2)(b) said § 87(2)(b) did not specify the source of the force.

None of the interviewed officers, including Sgt. Anzelino and PO Rodriguez, remembered or documented this incident.

The investigation could not locate a 911 call or any police communication related to this incident.

The Court of Appeals of New York held in People v. Debour, 40 N.Y.2d 210 (1976), that officers can forcibly stop and detain an individual based on a reasonable suspicion that he has committed, is committing, or is about to commit a crime. In addition, People v. Moore, 93 A.D.3d 519 (1st Dept. 2012) held that an interaction is raised to a seizure whenever physical force is used, or if no physical force is used, the person is submitted to the assertion of authority. (See Board Review 22 and 23).

The courts have also long held that the flight of an individual at the sight of officers, who only have an objective credible reason to approach him or her, will not give them the required reasonable suspicion to pursue that person. See People v. Jones, 2015 N.Y. Misc. LEXIS (Sup. Ct., Queens Co.) and People v. Holmes, 81 N.Y.2d 1056 (1993). They have also held that officers with a founded suspicion that criminality is afoot can, however, engage in a pursuit with a fleeing individual. See People v. Williams, 2014 N.Y. App. Div. LEXIS 6268 (2nd Dept.). (See Board Review 24, 25, and 26).

According to Patrol Guide Procedure 212-95, officers may use pepper-spray when they reasonably believe that it is necessary to effect an arrest of a resisting suspect, or to take an emotionally disturbed person in custody. It also adds that pepper-spray “may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance” and that officers are prohibited from pepper-spraying individuals who passively resist. (See Board Review 27).

In turn, Patrol Guide Procedure 203-11 indicates that only the amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody. (See Board Review 28).

Furthermore, PD v. Danahy, OATH Index No. 1923/00 (2000), held that an officer used excessive force against a flailing civilian, who was down on the floor, by striking him with his fists and with a blunt object. It explained that the civilian did not resist with the kind of force that would have justified the use of strikes by the officer. (See Board Review 18).

§ 87(2)(g)

Although § 87(2)(b) did not file the complaint with the CCRB, he still remained cooperative with the investigation by providing multiple statements and viewing a photo array over the span of more than eight months. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Juan Rodriguez drew his gun.

Allegation C – Abuse of Authority: Det. Daniel Beddows drew his gun.

Allegation D – Force: Det. Daniel Beddows pointed his gun at § 87(2)(b) and § 87(2)(b)

In § 87(2)(b)'s verified statement, he alleged that PO Rodriguez and Det. Beddows drew their guns and pointed them at him and § 87(2)(b) after they had split from § 87(2)(b). However, he did not mention this in his initial phone statement and during a later photo viewing, he clarified that only Det. Beddows pointed a gun at him and § 87(2)(b).

In a detailed phone statement, § 87(2)(b) corroborated that multiple officers drew their guns at the initiation of the chase. He made no indication that any officers pointed their guns, but he would not have been present for the gun-pointed allegations that occurred after he split from his friends. (See Board Review 12 and 13). In § 87(2)(b)'s phone statement, which was significantly less detailed than those of § 87(2)(b) and § 87(2)(b), he noted that the officers had guns, but he made no indication that they were ever drawn.

None of the interviewed officers, including PO Rodriguez and Det. Beddows, remembered nor documented this incident.

PD v. Gliner, OATH Index No. 955/00 (2000), held that an officer can draw his firearm and point it at another person so long as he has a reasonable fear for his own or another's safety. It indicates that the reasonableness of the officer's actions, given the totality of the surrounding circumstances, must be assessed when determining whether drawing and pointing a firearm constitutes misconduct. It further indicates that broad discretion and due deference is given to an officer's judgment at the time and scene of the incident. (See Board Review 19).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Abuse of Authority: PO Juan Rodriguez threatened § 87(2)(b) and § 87(2)(b) with the use of force.

In his initial phone statement, § 87(2)(b) alleged that PO Rodriguez stated to him and § 87(2)(b) “Stop running before we shoot you.” He later alleged in his verified statement that PO Rodriguez instead stated, “Get down on the ground before we shoot you.” However, § 87(2)(b) recounted this instance, during a follow-up phone statement, as PO Rodriguez having made the order for them to “get down on the ground.” Furthermore, § 87(2)(b) indicated, during the photo array viewing, that he did not remember PO Rodriguez having made a threat of force.

None of the additional contacted or interviewed parties corroborated that PO Rodriguez made any of the alleged threats of force.

§ 87(2)(g)

Allegation H – Abuse of Authority: An officer drew his gun.

Allegation I – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

Allegation J – Abuse of Authority: An officer frisked § 87(2)(b)

Allegation K – Abuse of Authority: An officer searched § 87(2)(b)

In a phone statement, § 87(2)(b) alleged that the officer who pursued and caught up with him also frisked and searched him before escorting him back to § 87(2)(b) and the other officers.

§ 87(2)(b) indicated that the only witness of those allegations is his aunt, § 87(2)(b) who the investigation was unable to contact. As mentioned above, § 87(2)(b) failed to cooperate with the CCRB in providing a verified statement and the investigation was unable to identify the subject officer of the above allegations. (See Board Review 13).

None of the other contacted or interviewed parties made any indication that they were privy to any of these allegations.

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2)(g)

Investigator: _____ Keyne Jean Villert _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date